IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 94 OF 1997

1. Marico Industries Ltd.
and anr. .. Petitioners

Vs.

1. The State of Maharastra
and ors. .. Respondents

Mr. Zuben Beharam Kamdin i/b Amarchand Mangaldas & Co. for petitioners.
Mr. Y.R. Naik with Mr. Prashant Naik for respondent nos. 2 and 3.

WITH
WRIT PETITION NO. 2426 OF 1999

Britannia Industries Ltd. .. Petitioners

Vs.

1. Mumbai Agricultural Produce
Market Committee & Ors. .. Respondents

Mr. C.M. Korde with Mr. M.N. Jadhav & J.J. Soloman i/b M/s. Soloman & Co. for petitioners.
Mr. Y.R. Naik with Mr. Prashant Naik for respondent nos.1 and 2.
Mr. K.K. Singhavi, Special Senior Counsel with Ms. Madulata Kajale, AGP for respnodent nos.3 and 4.

CORAM: B.H. MARLAPALLE &
D.B. BHOSALE,JJ.

Dated: June 16, 2006.

P.C.:-

1. In view of our Judgments in Writ Petition

Nos.1072/91 (OS), 3278/91 (OS), 6270/96 (AS), 353/98

(OS) and 1341/98 (OS) rendered today and for the reasons stated therein we hold that,

(a) Vanaspati, refined edible oil or edible oil, sugar, cashew nuts and dry fruits are agricultural produce within the meaning of Section 2(1)(a) of the Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963 (for short the Act).

(b) The notification dated 25/9/1987 issued by the State Government under Section 62 of the said Act does not suffer from any illegality and, therefore, challenge to the same fails.

(c) The APMC, Mumbai, has the right to levy and demand market fees on the marketing of all these agri produce, namely, vanaspati, refined edible oil/edible oil, sugar, cashew nuts and dry fruits etc. under Section 31 of the Act read with Rule 5 of the Rules 1967 framed thereunder, within its market area.

(d) The APMC, Mumbai, has no powers to demand and recover supervision charges under Section 34A of the Act for the time being and such a power can be exercised only after the Government's staff is engaged for the marketing of these agri produce procured/purchased by the petitioner-company/ association within the market area of the said Committee.

(e) The APMC, Mumbai cannot levy and demand market fees on any of these agri produce if they are purchased/procured outside its area and transported within its area by the concerned petitioners for their self consumption. However, if any or all of these agri produce are procured from outside or imported from other countries and sold/marketed within the area of the APMC, Mumbai, it has the power to levy and demand the market fees under Section 31 of the Act.

(f) The APMC, Mumbai is not justified in charging interest on the amount of market fees in the case of any of the petitioners for the part

dues, if any, when these petitions were filed.

(g) So far as the future arrangements are concerned, we reiterate our observations in para 18 of our Judgment in Writ Petition Nos.353 and 1341 of 1998 and once it is shown by the APMC, Mumbai that Government's staff has been engaged for the supervision of marketing of any of these agri produce, sold/marketed by any of the petitioners by deputing them in the premises/depots of the petitioners located anywhere under the market area of the Committee henceforth, the Committee has the right to levy supervision charges as well, at the rates prescribed by the State Government from time to time.

(h) The APMC, Mumbai shall hear the petitioners concerned and pass fresh orders of demand for the recovery of market fees within a period of three months, on the lines of the decisions/directions rendered by us in the above mentioned petitions. During the course of such hearing, the petitioners concerned shall place before the APMC all the documentary record regarding the marketing of

any or all of these agri produce within the market area of the Committee as well as outside its market area, so that the Committee is able to levy the market fees only to the extent of marketing that has taken place within its area, on the concerned agri produce.

. Both these petitions disposed off accordingly.

(D.B. Bhosale,J.) **(B.H. Marlapalle,J.)**